

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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CYCLE-CRAFT CO., INC.	)
d/b/a BOSTON HARLEY-DAVIDSON/BUELL,	)
	)
Plaintiff,	)
v.	)
	)
HARLEY-DAVIDSON MOTOR COMPANY, INC.	)
and BUELL DISTRIBUTION COMPANY, LLC,	)
	)
Defendants.	)
	)

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**DEFENDANTS' POSITION STATEMENT CONCERNING DEPOSITION  
DESIGNATIONS OF JON FLICKINGER****I. Harley-Davidson Has Asserted Valid Objections to the Testimony Designated by Plaintiff**

1. Harley-Davidson objects to Page 107, Line 24 to Page 110, Line 24 (attached hereto at Exhibit A). In this designation, plaintiff questions Mr. Flickinger concerning a May 14, 2004 letter sent by Gregory Holmes (plaintiff's counsel at the time) to William Berkowitz (Harley-Davidson's counsel), which responds to Harley-Davidson's April 20, 2004 Notice of Termination. A copy of this letter is attached hereto as Exhibit B. The letter contains the following statement: "For Settlement Purposes Only, Not Admissible in Further Proceedings." (emphasis in original). This letter is plainly inadmissible pursuant to Fed.R.Evid. 408 and any attempt to question Mr. Flickinger about this letter is inappropriate and inadmissible pursuant to Rule 408.

Further, the proposed testimony is simply irrelevant as the plaintiff asks Mr. Flickinger whether he received a copy of the letter (which he could not recall), whether he discussed the contents with anybody (which he could not recall), and whether he had

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heard about any of the explanations proffered by Cycle-Craft's attorney for its non-retail violations (which he could not recall). This testimony should be excluded.

Respectfully submitted by,

**Harley-Davidson Motor Company, Inc.,  
and Buell Distribution Company, LLC**

By their attorneys,

/s/ William F. Benson

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Dated: July 31, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by hand on July 31, 2006.

/s/ William F. Benson

William F. Benson